

### **EXHIBIT REGARDING SECTION 73.215 SHOWING**

Station WVBO is currently authorized to operate on Channel 280C3 at Winneconne, Wisconsin under a license issued on July 11, 1997 (BLH-19960124KA) covering a construction permit (BPH-1995060IC). This permit and license were granted pursuant to Section 73.215 of the Commission's Rules. The Form 301 application was filed on June 1, 1995 by the previous licensee, Value Radio Corp. Cumulus Licensing Corp., the current licensee, commissioned a study by its technical consultant, Reynolds Technical Associates, to improve its signal due to an existing 28.1 km short spacing to first adjacent Station WXSS(FM), Wauwatosa, Wisconsin and a 10.5 km short spacing to first adjacent Station WZEE, Madison, Wisconsin. The instant application proposes to entirely eliminate the short spacing to Station WZEE, Madison and reduce the short spacing to WXSS, Wauwatosa by approximately 8 km. In addition, there is preexisting overlap to both stations. But the instant application entirely eliminates the overlap to WZEE, Madison and slightly reduces the overlap to WXSS, Wauwatosa. *See Figures 6 & 7 of the attached Engineering Statement.*

The proposed short spacing to WXSS of 20.05 kilometers is in compliance with Section 73.215(e) of the Commission's Rules. However, although the current overlap to WXSS is reduced, there still remains some overlap. To the extent a waiver of Section 73.215(a) is necessary to permit this overlap, Cumulus hereby requests such a waiver. In a similar situation, the Commission waived the requirements of Section 73.215(e) in order to achieve a reduction in existing overlap. *See Letter to Lawrence Roberts, Esq. in re WPLY(FM), Media, PA* (File No. BPH-20001018ABT, Dec, 20, 2000). In addition, in the allocations context, in *Albemarle and Indian Trail, North Carolina*, 16 FCC Rcd 13876 (2001), the staff permitted a change in city of license based on the elimination and/or reduction of three preexisting short spacings and overlaps. The decision in that case quoted

the following policy: “we will consider waiving strict application of Section 73.207 in limited circumstances provided that no new short spacings are created no existing short spacings are exacerbated and the potential for interference between the currently short spaced stations is not increased” *Id.* at para 3. *See also Eatontown, Point Pleasant and Red Bank, New Jersey* 5 RR 2d 1762 (1965). The situation here is consistent with these cases. The currently licensed facilities do not comply with Section 73.215(a), and the requested modifications would result in a great improvement in the situation. Cumulus proposes to completely eliminate a 10.5 km short spacing to WZEE, Madison, and reduce the short spacing to WXSS, Wauwatosa by 8 km. In doing so, WVBO will also eliminate the overlap to WZEE and reduce the overlap to WXSS affecting approximately 500 persons. *See* Engineering Statement. No new overlap will be created. Accordingly, Cumulus believes the public interest would be served by a grant of this application.